

PROFESSIONAL CONDUCT COMMITTEE

Minutes of Meeting on February 6, 2001

[Approved on March 1, 2001]

Prepared By: Terry Wood
Meeting Location: Raytheon, 141 Spring Street,
Lexington, MA.

1. Call to Order: Co-chair Debra Stake called the meeting to order at 1:50 p.m. Also present were Gail Batchelder, Janine Commerford, Kirk Franklin, Gretchen Latowsky, Robert Luhrs, Debbie Phillips and Mark Roberts. Staff members present were Allan Fierce, Terry Wood, Joe DeCola and Ed Unser. Also present were Wesley Stimpson, a member of the LSP Association; Lisa Alexander, Maria Pinaud and Tom Potter of DEP.

2. Announcements: None.

3. Previous Minutes: The draft minutes of the meeting held on December 21, 2000 were approved.

4. Old Business:

A. Status of Complaint Review Teams

The Board members agreed to move this discussion to be part of the report from the Disciplinary Process Review Team.

B. Status of 00C-017

This non-DEP complaint involved an allegation by the complainant that, despite an alleged contractual obligation, the LSP had failed to follow-up on actions required by DEP in an NON. The complainant had retracted the complaint and the Board had decided at November's meeting that the contractual issue did not rise to the level of Board action. The Board, however, had expressed concern at the November meeting over allegations in DEP's NON/NOAF regarding deficiencies in an RAO report prepared by the LSP. The Board had tabled discussion of the complaint in November to allow Mr. DeCola to obtain a written response from the LSP and to allow DEP to provide information concerning the LSP's work at other sites. At its December meeting, the Board had tabled discussion of the complaint for a month to allow the

Board to read a response from the LSP passed out at the December meeting.

After reviewing and discussing the complaint, the LSP's response and additional material provided by DEP, a motion was made and seconded that a CRT be formed to investigate the complaint and make recommendations to the Board. The motion was approved: seven in favor; D. Stake abstained. The CRT will be composed of Ms. Commerford, Ms. Phillips and Ms. Wood.

5. New Business:

A. Complaint No. 00C-018

This complaint came from a private party who alleged that an LSP had improperly filed a Downgradient Property Status Opinion. After reviewing and discussing the complaint and the LSP's response, a motion was made and seconded that a CRT be formed to investigate the complaint and make recommendations to the Board. The motion passed unanimously. The CRT will be composed of Ms. Batchelder, Mr. Feldman (assuming he has no conflict) and Mr. Fierce.

B. Report from Disciplinary Process Review Subcommittee

Mr. Luhrs reported on the Disciplinary Review Process Subcommittee's second meeting held on January 17, 2001. Ms. Commerford, Ms. Stake, Mr. Luhrs, Mr. DeCola, Mr. Fierce and Ms. Wood had attended the Jan. 17th meeting.

Mr. Luhrs presented the following recommendations from the subcommittee for the Board's approval:

1) Each CRT establish a chairperson. Either Board member on the CRT would volunteer to serve as chair or, if neither Board member wanted to serve as chair, the duty would default to the staff attorney. The chairperson would be determined at the time the CRT is formed. The chairperson would be responsible for scheduling meetings and/or conference calls among the CRT members, would coordinate and delegate assignments during the investigation, would give updates regarding the CRT's progress at monthly PCC meetings, and would be responsible for reporting the CRT's determination regarding the case's priority to the PCC.

A motion was made and seconded to accept the subcommittee's recommendation that each CRT establish a chairperson. The motion passed unanimously.

2) Monthly tracking at the PCC meeting of the status of each CRT. The chairperson of each CRT would report the progress of the CRT's investigation at each month's PCC meeting. If the Board voted to approve this recommendation, the subcommittee suggested that Board staff provide a short training session regarding discussion of on-going CRT investigations. The staff would keep an updated list in Excel of all active cases and would update this list after each monthly PCC meeting.

Staff would send copies of the updated list to the Board members within a week after each PCC meeting.

Mr. Roberts expressed concern that, if all CRT chairs were to report about their respective cases, PCC meetings might become too long. Ms. Latowsky expressed concern that it might be too heavy a burden on both individual Board members and the staff if every case was expected to progress each month.

A motion was made and seconded to try out the monthly reporting of cases as described above. The motion passed unanimously.

3) Case Prioritization. Each CRT chairperson would be responsible to report the CRT's determination regarding case prioritization. Each case would be classified as standard or priority track. The criteria for the determination that a particular case is a priority would be:

- age of case (if greater than 12 months);
- risk to human health and/or the environment;
- blatant disregard for the MCP;
- pattern of serious repeat offenses (including repeat complaints);
- other extenuating circumstances.

Mr. Stimpson stated that the PCC may want to provide a way to compare cases against each other to prevent categorizing too many cases as priority.

A motion was made and seconded to accept the subcommittee's recommendation regarding prioritizing cases. The motion passed unanimously.

4) Board Appointments. While making no formal recommendation, the subcommittee noted that the LSP oil slot was vacant, Ms. Phillips had not yet been notified regarding a new term, and the labor representative's term was soon to expire. The subcommittee suggested that the Board might seek ways to streamline the appointment process such as sending a letter to EOEA or requesting assistance from the LSPA. The subcommittee suggested that the reappointment process would be a suitable topic for a future meeting.

5) LSP Notification. The subcommittee noted that LSPs should be notified, once the Board accepts a complaint against them, that the investigatory process takes time. Mr. Luhrs stated that Board staff is preparing language to that effect for the letter that is sent out to an LSP stating that a CRT has been formed to investigate a complaint against him/her.

It was decided that the DPR subcommittee would meet again in the near future. It was also decided that CRT chairs for the active disciplinary cases would be assigned at next month's meeting.

6. Future Meeting: The Committee has agreed to meet on March 1 at Cyn Environmental Services in Stoughton at a time to be determined. The Committee has also agreed to meet on March 21 at NERO in Wilmington beginning at 12:30 p.m.

7. Adjournment: The meeting was adjourned at approximately 3:23 p.m.